

REFERENCE TITLE: personnel files; right to copies

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SB 1105

Introduced by
Senators Brotherton, Miranda, Rios: Aboud, Garcia, Soltero

AN ACT

AMENDING TITLE 23, CHAPTER 2, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 23-204; RELATING TO EMPLOYMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 23, chapter 2, article 1, Arizona Revised Statutes,
3 is amended by adding section 23-204, to read:

4 23-204. Employee's right to copies of personnel file documents;
5 civil penalty

6 A. ON WRITTEN REQUEST BY A CURRENT EMPLOYEE, OR A FORMER EMPLOYEE
7 WHOSE EMPLOYMENT WAS TERMINATED LESS THAN THREE HUNDRED SIXTY-FIVE DAYS
8 BEFORE RECEIPT OF THE WRITTEN REQUEST, TO THE PERSON WHO IS RESPONSIBLE FOR
9 HUMAN RESOURCES OR PERSONNEL MATTERS FOR AN EMPLOYER IN THIS STATE, THE
10 EMPLOYER SHALL PROVIDE THE CURRENT OR FORMER EMPLOYEE A COPY OF THE FOLLOWING
11 DOCUMENTS:

- 12 1. ALL PERIODIC PERFORMANCE EVALUATIONS OF THE EMPLOYEE.
- 13 2. THE APPLICATION FORM OR RESUME SUBMITTED BY THE EMPLOYEE.
- 14 3. ALL FORMS THAT RECORD THE STATUS OR A CHANGE IN STATUS OF THE
15 EMPLOYEE, INCLUDING THE HIRING, THE CURRENT OR THE FINAL RATE OF PAY AND THE
16 PROMOTION OR TERMINATION STATUS.

17 4. ANY RECORDS OR DOCUMENTS IN THE PERSONNEL FILE OF THE EMPLOYEE THAT
18 REPORT THE OUTCOME OR CONCLUSION OF ANY COMPLETED INVESTIGATION BY THE
19 EMPLOYER RELATING TO THE EMPLOYEE.

20 B. WITHIN TEN BUSINESS DAYS AFTER THE WRITTEN REQUEST IS SUBMITTED,
21 THE EMPLOYER SHALL PROVIDE A COPY OF THE DOCUMENTS LISTED IN SUBSECTION A OF
22 THIS SECTION TO THE CURRENT OR FORMER EMPLOYEE. THE CURRENT OR FORMER
23 EMPLOYEE IS RESPONSIBLE FOR THE REASONABLE COSTS, AS DEFINED IN SECTION
24 12-351, FOR THE COPIES.

25 C. THE EMPLOYER IS NOT OBLIGATED TO PROVIDE A COPY OF ANY DOCUMENTS
26 UNDER THIS SECTION IF THE CURRENT OR FORMER EMPLOYEE HAS SUBMITTED A REQUEST
27 UNDER THIS SECTION WITHIN THE PRECEDING SIX MONTHS.

28 D. THIS SECTION DOES NOT REQUIRE THAT AN EMPLOYER MAKE OR RETAIN ANY
29 DOCUMENT, EXCEPT THAT AN EMPLOYER SHALL NOT DISCARD OR DESTROY ANY REQUESTED
30 DOCUMENT AFTER RECEIVING A REQUEST UNDER THIS SECTION.

31 E. EXCEPT AS PROVIDED IN SUBSECTION F OF THIS SECTION, NOTHING IN THIS
32 SECTION CREATES A CAUSE OF ACTION OR A RIGHT TO BRING AN ACTION AGAINST AN
33 EMPLOYER FOR RELEASING OR REQUESTING COPIES OF DOCUMENTS LISTED IN SUBSECTION
34 A OF THIS SECTION OR FOR NOT REQUESTING COPIES OF DOCUMENTS LISTED IN
35 SUBSECTION A OF THIS SECTION.

36 F. IF AN EMPLOYER FAILS TO COMPLY WITH THIS SECTION, THE CURRENT OR
37 FORMER EMPLOYEE MAY SUBMIT A COMPLAINT TO THE LABOR DEPARTMENT OF THE
38 INDUSTRIAL COMMISSION OF ARIZONA. THE COMMISSION SHALL NOTIFY THE EMPLOYER
39 OF THE COMPLAINT AND THE EMPLOYER'S OBLIGATIONS UNDER THIS SECTION. IF THE
40 EMPLOYER DOES NOT PRODUCE A COPY OF THE DOCUMENTS LISTED IN SUBSECTION A OF
41 THIS SECTION WITHIN TEN BUSINESS DAYS AFTER NOTIFICATION BY THE COMMISSION,
42 THE COMMISSION MAY ASSESS A CIVIL PENALTY NOT TO EXCEED ONE HUNDRED DOLLARS
43 FOR THE FIRST VIOLATION AND AN AMOUNT THAT DOES NOT EXCEED ONE THOUSAND

1 DOLLARS FOR ANY SUBSEQUENT VIOLATION WITHIN A ONE YEAR PERIOD. A COURT MAY
2 EQUITABLY TOLL A STATUTE OF LIMITATIONS IF THE EMPLOYER FAILS TO PRODUCE OR
3 DELAYS PRODUCING THE DOCUMENTS AFTER BEING ASSESSED A CIVIL PENALTY BY THE
4 COMMISSION. THE REMEDIES OF THIS SUBSECTION ARE THE EXCLUSIVE REMEDIES FOR A
5 VIOLATION OF THIS SECTION.